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14 IN THE UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA,

No. CR 17 00533 EMC

18 Plaintiff,

19 JOINT GROUP ONE DEFENSE
20 RESPONSE TO UNITED STATES'
NOTICE REGARDING CAST
PRESENTATION [ECF 2784]

v.

21 RUSSELL TAYLOR OTT,

22 Defendant. / Dept: The Honorable Edward M. Chen
23
24 TO: THE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF
25 CALIFORNIA; ASSISTANT UNITED STATES ATTORNEYS KEVIN BARRY,
AJAY KRISHNAMURTHY AND LINA PENG; AND TO THE CLERK OF THE
26 ABOVE-ENTITLED COURT:
27
28

1 Trial Group One responds to the United States' Notice Regarding CAST Presentation
 2 (ECF 2784), and its accompanying modifications of the CAST Presentation, GX 127. (ECF 2784-
 3 1). The parties met and conferred regarding the modifications per the Court's direction, and it was
 4 agreed that the government would file a version of GX 127 with redactions and modifications
 5 already agreed upon, and then the defense would file a response as to objections, and suggested
 6 further modifications/points of contention. Here the defense sets out its issues with the version of
 7 GX 127 attached as an exhibit to ECF 2784. The original 80 page presentation has now been
 8 expanded to 84 pages by the government.¹ General points will first be addressed, and then issues
 9 with individual slides will be discussed.

10 **A. Redaction Boxes**

11 The government's submitted version of GX 127 has 14 separate pages where there are
 12 redactions. As to all of those pages containing larger (more than a line or two) redactions, the
 13 redaction is in black and contains big, block letters "REDACTED". The markups are obviously
 14 highlighted, and unnecessarily emphasize material that has been removed from the presentation
 15 based on legitimate defense objections. For this summary presentation there is no need to
 16 emphasize to the jury that they are being deprived of information, and leave them to speculate
 17 what has been properly culled from the presentation. The defense has suggested that the
 18 redactions be done in a neutral color without any lettering or language appearing within the four
 19 corners of the redaction. It is a simple process. An example of a neutral redaction is provided in
 20 attached Exhibit A demonstrating the agreed upon redaction in slide number 3.

21 **B. Inserted Slide**

22 Taking direction from the Court, the defense suggested that a slide be inserted between
 23 slides 11 and 12 of the original presentation. The choice of that particular location is that slide 11
 24 is the first slide where numbers appear on mapped cell site location sectors, generally matched

25
 26 ¹ The expanded number of pages is a result of magnifying the charts that were originally
 27 on a single slide, slide 79. The expanded pages are addressed herein. Many of the slides in the
 28 presentation have numbers in the upper right corner, but many do not. To make matters a little
 more confusing, after numbered slide 11 the sequential 84 pages of the entire PDF document do
 not match up with the slide number. (e.g. slide 15 is page 16 of the PDF) Herein, if a slide
 number is identified, the PDF page number is also identified.

1 with an overlaid box in a slide that contains contact frequency information, either with specific
 2 times or over a period of time. Thereafter, on multiple mapped slides that follow there are similar
 3 slides with numbered sectors from 1 to 5 on a particular slide. The Court has indicated that it was
 4 not inclined to insert particular language on every such slide, but suggested that it was open to a
 5 single slide which provided helpful, explanatory information to the jury for their review of the
 6 CAST presentation.

7 The language suggested by the defense to the government for this inserted slide is:

8 **EXPLANATION OF CELL SITE ILLUSTRATIONS USED**

9 In a number of the slides that follow, cell site locations and sector orientations
 10 sometime contain a number, usually 1, 2 or 3, to illustrate which of the cell sectors
 11 a particular handset *may* have accessed. As explained by the testimony of agent
 12 Sparano-Stanger, sometimes there is an overlap or duplication in cell sector
 13 coverage. The placement of the number near the specified cell site is intended to
 14 indicate that the particular phone handset accessed the specified cell tower. The
 15 location of the number *does not* purport to indicate exactly where the phone was,
 16 and may not indicate exactly which cell site sector area the phone was in.

17 The government objects to this language. Instead, in their proposed modification to be inserted
 18 between slides 11 and 12, they reinserted an exact copy of what is already slide 2, but highlighted
 19 the second paragraph, “Methodology”, and did not remove the other paragraphs on the page. The
 20 defense objects to the government’s suggested insertion, and asks the Court to order the insertion
 21 of the language suggested by the defense. The language is not argumentative, is consistent with
 22 the testimony of agent Sparano-Stanger, is consistent with what is submitted to be the intended
 23 inclusion of those numbered sectors, and will be helpful to the jury. The insertion of an exact copy
 24 of slide 2, even if highlighted, will be confusing and repetitive. The “Methodology” language is
 25 also not the easiest to understand, and does not specifically address the numbered sectors issues.

26 **C. *67 “Blocking” Language**

27 The defense objects to the inclusion of the “*67” “blocked” fact box or equivalent
 28 language appearing on multiple slides. (Slide 47 (PDF 48), Slide 50 (PDF 51), PDF 71) Similar to
 the topic discussed above, there is no need for this language to be on multiple slides. It could, in
 fact be covered on the insert between slides 11 and 12, and does not have to appear on multiple
 slides.

1 **D. Individual Slides**

2 1. Slide 26 (PDF 27)

3 The box at the upper right corner discussing apparent travel should be redacted.

4 2. Slide 43 (PDF 44)

5 The box at the upper right corner discussing apparent travel should be redacted.

6 3. Slide 51 (PDF 52)

7 The second paragraph in the fact box in the upper left corner should be redacted to remove
8 the language as to a handset change.

9 4. Slide 54 (PDF 55)

10 The sentence at the bottom of the page about no cell site activity for Joel Silva after 10:24
11 a.m. until 7:53 p.m and 11:13 p.m should be redacted. The very same information and language
12 appears in a fact box on slide 51 (PDF 52). The sentence at the bottom of the page associated with
13 a handset change should be redacted consistent with slides 60 (PDF 61) and 63 (PDF 64).

14 5. Slide 63 (PDF 64)

15 The language at the bottom of the page “There is a lapse of cell site activity for telephone
16 559-741-6282 (Huff) when cell site activity was reported for 707-484-8852 (Silva).” should be
17 redacted also as argumentative.

18 6. Slide 66 (PDF 67)

19 See directly above. The same language is currently included, and should be redacted as
20 argumentative and cumulative.

21 7. Slide 68 (PDF 69)

22 See directly above. Same situation.

23 8. PDF 80 - 83

24 These slides are what used to be on former slide 79, but in larger form in order to be
25 legible. The objection here is specific to Mr. Ott. The two tables PDFs 80 and 81 should be on the
26 same page so as to make it immediately apparent that the two charts are related. The chart on
27 current PDF 80 does not contain phone numbers, while phone numbers do appear on PDF 81, and
28

1 to remove any ambiguity it should be clear that the two charts relate to the same subject matter
2 and summary information.

3 **CONCLUSION**

4 For all the reasons stated, the Court should order the further modifications to the GX 127
5 version currently attached to ECR 2784.

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7

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9 Dated: May 30, 2022

Respectfully submitted,

10 /s/

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On Behalf of Group One Defense